THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4061 of 2006

05.1.2007

Between:

Somarouthu Rajyalakshmi, W/o.Lakshminarayana

... Petitioner

AND

The Special Officer and Competent Authority,
Urban Land Ceiling, Arundelpet, Guntur

... Respondent

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ORDER:

The petitioner is daughter-in-law of one Somarouthu Basavaiah, who was owner of considerable extents of lands in D.Nos.498, 397/A, 117/2 and 397/A situated at Guntur. These were vacant agricultural lands. Basavaiah filed a declaration under Section 6 of the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act). The respondent allegedly declared the family holding as 2000 Sq.meters and rest of the land as excess land. Basavaiah had five children – three minor sons, one minor daughter and one major son, Lakshminarayana, who is the husband of the petitioner herein. It is the case of the petitioner that while considering the declaration filed by Basavaiah and determining surplus vacant land, respondent did not take into consideration the entitlement of the major son. She contends that the same is contrary to the law as well as the instructions issued by the Government of India in Ministry of Urban Affairs in their letter No.3/1/97/UCU(2), dated 21.5.1997, wherein it was clarified that a major child of the declarant is entitled to claim a share in the property. Therefore, the petitioner made a representation to the respondent on 02.1.2006 requesting to consider the claim of the petitioner being the widow of Lakshminarayana, in vain. Therefore, she filed the present writ petition seeking a direction to the respondent to consider her representation.

The writ petition was filed on 01.3.2006. The same was disposed of on 07.3.2006 by this Court at the admission stage giving liberty to the petitioner to file appeal. However, the petitioner filed WPMP No.7269 of 2006 'For Being Mentioned'. By an order dated 27.3.2006, this Court recalled the order dated 07.3.2006 and restored the file. Again the matter was dismissed for default on 17.6.2006. Again when the petitioner filed WPMP No.21409 of 2006, the order dismissing the writ petition for default has been recalled. When the matter was listed 'For Admission', learned Counsel for the petitioner sought time to produce all the material documents. All the material

documents are produced before this Court today.

Learned Counsel for the petitioner submits that when the petitioner's husband was a major by the time the declaration of Basavaiah was processed, the family was entitled to two family holdings admeasuring 4000 Sq.meters and, therefore, it is incumbent on the part of the respondent to consider the representation made by the petitioner. **Per contra**, learned Assistant Government Pleader for Revenue (ULC) submits that the respondent had no power to review the order passed under Section 8(4) read with Section 9 of ULC Act and if the petitioner is aggrieved by the said order, she has to seek remedy by way of appeal. He also submits that there is no provision to reopen the determination by the Special Officer.

As noticed, learned Counsel for the petitioner has produced the proceedings of the respondent, statement under Section 9 of ULC Act, revised statement and various other proceedings. A perusal of these would show that initially Basavaiah was determined to be surplus landholder in respect of land admeasuring 7648 Sq.meters in survey No.498 of Guntur and 1225.86 Sq.meters in survey No.117/2C (part) of Agathavarappadu. A draft statement under Section 8(1) of ULC Act was issued on 31.12.1976 calling for objections from Somarouthu Basavaiah. He filed objections on 11.2.1977 *inter alia* contending that the land in survey No.498 of Guntur is Joint Family property in which major son, Lakshminarayana, is entitled for a share. Taking this into consideration, respondent issued proceedings under Section 8(4) of ULC Act in ULC No.721/76, dated 12.7.1978 and final statement under Section 9 of ULC Act. In the final statement, after allowing 1/5th share in survey Nos.498 and 497 to Lakshminarayana (major son), total vacant land was determined at 7430.56 Sq.meters and after allowing 2000 Sq.meters to Basavaiah, he was declared to be surplus landholder of 5430.56 Sq.meters. Other documents also clinchingly show that while dealing with declaration filed by Basavaiah one unit (2000 Sq.meters) was allowed to Lakshminarayana and, therefore, the petitioner who is his widow even if she is a member of the family is not entitled for another unit. This Court, however, hastens to add that when once the Special Officer issued proceedings under Section 8(4) of ULC Act and final statement under Section 9 of ULC Act, he has no jurisdiction to modify earlier order or to reopen the matter. Any person aggrieved by that order may file appeal before the Urban Land Tribunal under Section 33 of ULC Act.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

January 05, 2007.
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